

SEP 29 2010

Attorney Docket No. 2013-3-06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Myoung Jun Lee

Serial No: 10/034,177

Filed: December 28, 2001

For: THERMO-SENSITIVE HEATER AND
HEATER DRIVING CIRCUIT

Patent No.: 6,756,572

Issued: June 29, 2004

Conf. No.: 1566

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**STATEMENT FOR PETITION TO ACCEPT
UNAVOIDABLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT
(37 CFR 1.378(B))**Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

According to the PAIR system, the above identified patent expired as of July 28, 2008 for failure to pay the first maintenance fee. This paper is a statement providing the showing of unavoidable delay recited in paragraph 8 of Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b)) (Form PTO/SB/65).

The last communication with the patentee regarding the above identified patent was a letter dated August 20, 2004 enclosing the ribbon copy of the patent. The letter clearly indicated the following:

"We will endeavor to remind you of upcoming due dates. However, please appreciate that, due to the long time-frame involved, we can not be responsible for the non-payment of maintenance fees or for the non-notification of maintenance fee due dates. Accordingly, we strongly recommend that these due dates be docketed by your office and/or the patent owner as appropriate to asset the attached patents represents." (emphasis added, see page 1 of evidence 1).

Therefore, after the patent issued, no reminder was sent to the patentee by the undersigned agent's firm, believing that the patentee would take care of payment of the maintenance fees on their own. Accordingly, the docket for the patent was completely closed in the firm's docketing system after reporting the ribbon copy of the patent on August 20, 2004 in the absence of any specific instructions from the patentee with regard to the maintenance fee.

Undersigned agent became aware of the expiration of the patent on December 14, 2009 while reviewing the patent status report of the patentee prepared by docketing manager, Emily Baldwin. Thereafter, the patentee was immediately notified of the expired patents and Ms. Baldwin sent a pre-invoice for paying the maintenance fee to the patentee via email, advising that the maintenance fee can still be paid by June 29, 2010 with a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent if the pre-invoice is paid by the patentee. Undersigned agent was cc'd in the email sent to the patentee on December 17, 2009 by Ms. Baldwin. The patentee confirmed that the expiration of the patent was never intentional.

On September 10, 2010, undersigned agent reported an updated patent status report prepared by docketing staff, Jane Kim, to the patentee in response to the patentee's request. It is noted that Ms. Emily Baldwin left the firm in February 2010. In the updated patent status reported to the client on September 10, 2010, the above identified patent appeared as "Expired for non-payment on: 06/29/2008." Still, undersigned agent was not aware that the delayed maintenance fee and petition fee were due June 29, 2010 and believed that the patent expired upon approval by the patentee. On the same day, vice president of Orion Electronics, Inc., Mr. Sean Lee, acting as a representative of the patentee, contacted undersigned agent and indicated that the payment for the pre-invoice dated December 17, 2009 was sent to our firm early this year. Undersigned agent confirmed with the billing department of the firm that the payment was received on January 7, 2010 for invoice number 60016 dated December 17, 2009.

On September 14, 2010, undersigned agent's secretary, Ms. Lindsey Dias, attempted to pay the maintenance fee, filing Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent via the USPTO EFS and noted that the petition to reinstate the patent cannot be processed electronically because the date of expiration was over 24 months. Thus, undersigned agent promptly started preparation of the instant petition and statement.

As discussed above, the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the delayed maintenance fee would be paid timely. However, while the docketing system of the firm showed receipt of a

Notice of Patent Expiration on August 4, 2008, the due date of June 29, 2010 for paying the delayed maintenance fee with a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent was not shown in the docketing record. Apparently, while Ms. Baldwin reported the due date to the patentee on December 17, 2009, she forgot to enter the due date into the docketing system. Thus, the due date never appeared on the firm's daily due date reminders. Therefore, the expiration of the patent was never intentional and was unavoidable.

The following is a timeline of the steps taken to file the petition:

Date	Event
June 29, 2004	Patent No. 6,756,572 issued.
August 20, 2004	Ribbon copy of the issued patent was forwarded to the patentee, indicating that "we can not be responsible for the non-payment of maintenance fees or for the non-notification of maintenance fee due dates" in a reporting letter to the patentee. File closed as of this date.
June 29, 2008	Patent No. 6,756,572 expired for failure to pay the maintenance fee.
December 14, 2009	The firm became aware that the patent expired while reviewing the patentee's patent files.
December 17, 2009	The firm reported expired patent to the patentee and sent pre-invoice to patentee.
January 7, 2010	Payment was received from the patentee for payment of the maintenance fee. However, there was no communication between the billing department and the docketing department after receiving the payment.
June 29, 2010	Petition to reinstate the expired patent was due for electronic processing. However, the due date did not appear on the daily due date reminder.
September 10, 2010	The firm reported updated patent status report to the patentee and the patentee informed the firm that the maintenance fee was not paid despite their payment for the fee.
September 14, 2010	The firm attempted to pay the maintenance fee via EFS-Web with Auto-Grant Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c)) unsuccessfully because more than 24 months passed after the six-month grace period.
September 15, 2010	The firm began drafting the statement for petition to accept unavoidably delayed payment of maintenance fee in an expired patent.

In view of the above statement, the Patent Office is respectfully requested to accept delayed payment of the maintenance fee in the above identified expired patent. If for any

reason the Patent Office finds the petition other than in condition for grant and the maintenance fee cannot be accepted, the Patent Office is requested to call the undersigned at the Los Angeles, California, telephone number (213) 622-2221 to discuss the steps necessary for placing the petition in condition for grant.

Respectfully submitted,

LEE, HONG, DEGERMAN, KANG & WAIMEY

Date: September 29, 2010

By: 

Harry S. Lee

Registration No. 56,814

Customer No. 035884

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))

Docket Number (Optional)
2013-3-06

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA: 22313-1450
Fax: (571) 273-8300

10/22/2010 DALLEN 00000009 502290
01 FC:1599 1190.00 DA

6756572

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 6,756,572

Application Number: 10/034,177

Issue Date: June 29, 2004

Filing Date: Dec. 28, 2001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.368(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ Is a reissue of original Patent No. _____ original issue date _____
original application number _____
original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ filed on _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

September 29, 2010
Date


Signature

Harry S. Lee

Typed or printed name of person signing Certificate

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This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SEP 29 2010

PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0018

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(l)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.SURCHARGE FEE BEING SUBMITTED \$ 700

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ _____☒ Please charge Deposit Account No. 50-2290 the sum of \$ 1190☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 50-2290

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SEP 29 2010

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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7. OVERPAYMENT

As to any overpayment made, please

☒ Credit to Deposit Account No. 50-2290

OR

☐ Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

September 29, 2010

Date

Harry S. Lee

56,814

Typed or printed name(s)

Registration Number, if applicable

Address associated with customer no. 035884

213.623.2221

Address

Telephone Number

Address

ENCLOSURES:

- ☒ Maintenance Fee Payment
☒ Statement why maintenance fee was not paid timely
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
☒ Other: Evidence 1

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Under the Paperwork Reduction Act of 1996, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature

September 29, 2010

Date

Harry S. Lee

Type or printed name

56,814

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

See attached statement for Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent.

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(Please attach additional sheets if additional space is needed)

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Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

THE LAW FIRM OF

LEE, HONG, DEGERMAN, KANG & SCHMADEKA

A PROFESSIONAL CORPORATION

801 SOUTH FIGUEROA STREET
FOURTEENTH FLOOR
LOS ANGELES, CALIFORNIA 90017
TELEPHONE: (213) 623 - 2221
FACSIMILE: (213) 623 - 2211

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ANDREW B. LEE
JOHN B. LEE
LEW E. V. MACAPAGAL
RICHARD C. SALFELDER
LARRY R. SCHMADEKA
AMIT S. SHETH
MARC Wm. VITOLO
OF COUNSEL

August 20, 2004

Mr. Myoung Jun Lee
261 West Rivera Ct.
La Habra, California 90631

Re: U.S. Patent Application for:
THERMO-SENSITIVE HEATER AND HEATER DRIVING CIRCUIT
Serial No.: 10/034,177
Filing Date: December 28, 2001
Our Ref. No.: 2013-3-08

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Dear Mr. Lee:

We are pleased to enclose the ribbon copy of United States Letters Patent No. 6756,572 B2, issued on June 29, 2004. This document is the only one of its kind that will ever exist and should be kept in a safe place, such as a fireproof vault. We also include five (5) soft copies.

You may now begin to mark the products with the word "Patent" (or "Pat.") followed by the patent number. We encourage you to do so since failure to mark may jeopardize your right to recover damages from an infringer. It will not, however, invalidate the patent.

The patent will expire twenty years after the patent application was filed. However, during the course of the term, maintenance fees will be due and payable after the 3rd, 7th and 11th year. No maintenance fees will be required for the design patent.

We will endeavor to remind you of upcoming due dates. However, please appreciate that, due to the long time-frame involved, we can not be responsible for the non-payment of maintenance fees or for the non-notification of maintenance fee due dates. Accordingly, we strongly recommend that these due dates be docketed by your office and/or the patent owner as appropriate to asset the attached patents represents.

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Mr. Myoung Jun Lee
August 20, 2004
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Please appreciate that the patent has not been proofread to check for printing errors. However, should you desire this service to be performed, we will be happy to do it at an additional charge.

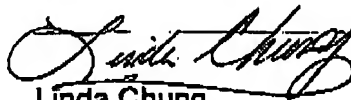
Although the patent has now issued and the claims are fixed, we may have the ability to change the claims. For example, future improvements to the invention may have caused it to evolve to such an extent that the patent no longer adequately protects the current commercial embodiment of the invention or what a potential infringer is doing. It is sometimes possible to have the patent reissued in a form which better protects the current embodiment of the invention.

An application to reissue a U.S. patent, in order to broaden the scope of claim coverage, must be filed within 2 years after the original issue date. We advise that you periodically review the protection afforded by the claims of this patent to determine whether a reissue application should be considered. Reissue may be sought on the basis that, due to an inadvertent error made without deceptive intent, the patent claimed more or less than the patentee had a right to claim as new.

The preparation of a reissue application can be complex, time consuming, and expensive. Upon application for reissue, the original patent must be surrendered to the Patent Office. The patentability of all of the claims is reconsidered by the Patent Office, just as in the case of the original patent application. A decision to seek reissue of a patent should not be made lightly. In any event, the 2-year deadline for a broadening reissue application is not extendable. If reissue is contemplated, we must have your instructions at least 4 months before the deadline (that is, at least 4 months before the second anniversary of the patent issue date).

Should you have any questions, please do not hesitate to call.

Very truly yours,



Linda Chung
Patent Secretary

LC
Enclosures

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